

REMARKS

Claims 35-74 are in the case and presented for consideration.

Claims 35 and 42 have been amended to more concisely recite elements and limitations. Thus, claims 35 and 42 have not been narrowed in any way.

Claims 35, 42, 60, and 61 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The rejected claims have been amended to entirely remove the recitation at issue. Accordingly, the rejection should be withdrawn.

ARGUMENT

I. **REJECTION**

Claims 42, 49, 50, 54, 60, and 61 were rejected under 35 U.S.C. 103(a) as being obvious from U.S. Patent 5,959,621 to Nawaz in view of U.S. Patent 6,259,432 to Yamada.

Additionally, claims 35, 57, 58, and 59 were rejected under 35 U.S.C. 103(a) as being obvious from U.S. Patent 5,959,621 to Nawaz in view of U.S. Patent 6,259,432 to Yamada, and U.S. Patent 6,005,767 to Ku et al.

The remaining claims were also rejected under 35 U.S.C. 103(a) as being obvious in view of the above references in combination with various other references. Given the number of such separate rejections, these shall be referred to collectively as the "Other Rejections".

A. **INTRODUCTION**

Claims 35-61 have been rejected as being obvious to the person of ordinary skill in the art from a combination of the cited references.

Applicants respectfully traverse the Office's rejection because the Office has not established *prima facie* obviousness for the reasons detailed below and because the references are not combinable in the manner suggested by the Office.

B. **STANDARD**

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. *MPEP* §2142; *In re Fritch*, 972 F.2d 1260, 1262; 23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992). The

initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. *MPEP* §2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q. 2d 1443, 1444 (Fed. Cir. 1992). Only when *prima facie* case of obviousness is established does the burden shift to the Applicant to produce evidence of nonobviousness. *MPEP* §2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q. 2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q. 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the Applicants are entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q. 2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the Applicant's

disclosure. *MPEP* §2142

C. **DISCUSSION**

1. **CLAIM LIMITATIONS MISSING FROM THE CITED REFERENCES**

To establish a *prima facie* case of obviousness, the prior art references when combined must teach or suggest all the claim limitations. Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness with respect to independent claims 35, 42, 60, and 61. Claims 35, 42, 60, and 61 formerly and currently recite at least one element or limitation which the Office has not shown to be found in any of the cited references alone or in combination. In particular, claim 35 recites:

a flow zone comprising...a flow control means responsive to appropriate strokes made on the touch screen by the user within the flow zone to selectively change flow speed and flow direction of the flowing links

Even assuming *arguendo* that the cited references are combinable (which Applicants do not concede), the Office has not established this limitation. The Office deems the claimed flow zone to be disclosed in Nawaz '621 as a ticker display pane 142. The Office construes speed indicators for scrolling a scroll bar of an application (Yamada '432, col. 18, lines 20-47) as the claimed flow control means. The Office further deems that "Yamada teaches the flow zone comprises a flow control means responsive to appropriate manipulation of the input device by the user within the flow zone to selectively change the flow speed and flow direction (fig. 6; col. 18, lines 20-47)." Applicants respectfully disagree.

The Office has not shown that Yamada '432 actually teaches a flow zone *comprising* a flow control means. The Office has not shown that the ticker display pane 142 of Nawaz '621 (deemed by the Office to be a flow zone) or that any application window of Yamada '423 *comprises* the speed indicators for scrolling a scroll bar (deemed by the Office to be a flow control means).

The display form of a mouse cursor is a bitmap display, which is distinct and separate from an application window (see col. 9, line 36-38; col. 18, line 9). The speed indicators of Yamada '432 are an alteration of a mouse cursor, which is an alteration of a bitmap display (see col. 9, lines 36-46; col. 18, lines 8-47). As shown in Fig. 7, the mouse cursor 300 hovers over a frame window. The mouse cursor 300 is not part of the frame window. When the mouse cursor is altered to speed indicators, the speed indicators are not part of the frame window either. Therefore, the frame window does not *comprise* the speed indicators.

Claim 42 recites a similar limitation and is patentable for at least the same reasons.

Claims 60 and 61 recite "flow control means in said flow zone," which is also not found in any combination of the cited references.

2. NO BASIS IN THE ART FOR COMBINING THE REFERENCES

Furthermore, with respect to independent claims 35, 42, 60 and 61, Applicants respectfully submit that Nawaz '621 and Yamada '432 are not combinable in the manner suggested by the Office for the reasons set forth below.

The background of Yamada '432 explains that application windows with scroll bars can be scrolled by manipulating the scroll bar and that an Intellimouse with a wheel can be used for accomplishing such scrolling (col. 2, lines 12-30). Yamada '432 explains that FIG. 3 (which shows an Application with **Scroll Bar**) is a conceptual diagram for explaining an interrelational relationship of software programs when implementing a scrolling operation on a display screen **embodying the present invention** (col. 15, lines 29-32). Further to this explanation, Yamada '432 indicates that:

"The window system prepares a horizontal **scroll bar** or a vertical **scroll bar** at the lower edge or at the right edge of the window when all the processed data in the application (e.g., a text file edited by using word processing software) can not be displayed within the area of the frame window...When a window for an application is displayed and the area of data to be displayed in the window exceeds the area available for display in the frame window, at least one of the horizontal and the vertical **scroll bars** for screen scrolling is displayed. Displayed data are scrolled upon the clicking of a scrolling button on one of the **scroll bars** (previously described). The application also scrolls display data upon receipt of the message "ScrollMsg" instructing the scrolling operation." (col. 16, lines 51-56; col. 17, lines 1-9; emphasis added)

Yamada '432 also explains that "The mouse driver transmits the message "ScrollMsg" to the Scroll Mapper through the queue of the OS." (col. 15, lines 51-53). Yamada '432 discloses that:

The mouse driver inserts a message into the queue of the OS (in this embodiment, hereinafter referred to as "ScrollMsg") for drawing the mouse cursor at the time of scrolling. Then, the Scroll Mapper, in response to receiving the ScrollMsg from the queue, draws the mouse

cursor in accordance with an instructed scrolling speed (the total interval to be scrolled by a single scroll instruction). Also, the Scroll Mapper transmits to an active application (e.g., word processing software), through the queue of the OS, a message instructing the total interval the display data will be scrolled. A description of the detailed operation of the Scroll Mapper will be described later. (col. 14, lines 59-67; col. 15, lines 1-4)

Fig. 3 shows the Scroll Mapper transmitting to an Application with **Scroll Bar**, through the queue of the OS. Finally, Yamada '432 explains that "FIG. 4 is a flowchart showing the processing performed by device driver "Scroll Mapper" to display a mouse cursor *in accordance with the present invention*." (col. 17, lines 37-39). Fig. 4 shows that after messages are examined, the mouse cursor bitmap is altered and that the alteration occurs in two stages, stage two of which is cited by the Office. (see col. 18, lines 8-47).

The point of Applicant's explanation above is that the entire Yamada '432 invention is based on ***scrolling an application with a scroll bar as a result of mouse input***. That is, the application window must be scrollable by having a scroll bar ("When a window for an application is displayed and the area of data to be displayed in the window exceeds the area available for display in the frame window") and as a result of mouse input as opposed to general software settings. If there is no application window having a scroll bar, the ScrollMsg is not transmitted to the ScrollMapper via the queue and there is no alteration to the mouse cursor (i.e., no speed indicators), and there are no speed indicators. Yamada '432 makes very clear that the scroll mapper, mouse driver, and pointing device 200 are

essential elements of that invention. (*also see* Fig. 3, col. 15-17)

Turning now to Nawaz '621, ticker display pane 142 is not an application window having a scroll bar. Furthermore, there is no mouse controlling the ticker display pane 142. Although the data items 152 flow from left to right, there is no scroll bar for moving the flow of items left to right. There is no receipt of the message "ScrollMsg" instructing the scrolling operation because the ticker display pane 142 is not an application window having a scroll bar and is not application that scrolls display data "when a window for an application is displayed and the area of data to be displayed in the window exceeds the area available for display in the frame window," as described in Yamada '432. It is noteworthy that by stark contrast, windows 106 and 108 of Nawaz '621 show scroll bars, whereas ticker display pane 142 does not. Nawaz '621 does not indicate anywhere that ticker display pane 142 is scrollable. In order for the Office to establish a *prima facie* case of obviousness, the Office must show that ticker display pane 142 has **scroll bars** that are scrollable as a result of a mouse. The Office has not made such a showing.

Applicants have previously tried to make similar explanations to the Office (see Response dated 1-18-06, page 14, top paragraph; Response dated 7-6-06, pages 20-21). The Office's response on page 14 of the Final Office Action dated September 21, 2006 is:

In this case, the ticker display pane of Nawaz can be an application window (col. 9, lines 59-62), and scrolling of data items is permitted by the ticker display pane (see,

col. 8, lines 42-54; *data item can be scrolled at various speeds and directions*).

The Office's response is essentially nonresponsive to Applicants previous arguments since it does not establish that the data items of the ticker display pane are scrollable by **scroll bars and a mouse**. Rather, it is clear that the ticker display pane 142 of Nawaz is an **automatic** and **animated** software. (see col. 8, line 25-26; col. 8, lines 38-39). By not responding to Applicants, the Office has failed to establish a *prima facie* case of obviousness.

Accordingly, all claims depending from claims 35, 42, 60, and 61 are believed to be patentable for at least the reasons described above.

Applicants submit herein an additional set of claims 62-74 which are also deemed allowable.

Accordingly, the application and claims are believed to be in condition for allowance, and favorable action is respectfully requested. No new matter has been added.

If any issues remain which may be resolved by telephonic communication, the Examiner is respectfully invited to contact the undersigned at the number below, if such will advance the application to allowance.

The Commissioner is hereby authorized to credit any overpayment or charge any fee (except the issue fee) to Account No. 14-1270.

Respectfully submitted,

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